IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 343 of 1996

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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VASUDEV SHOBHRAJMAL TAHILLANI THRO'HIS SON LAXMAN VASUDEV – Petitioner (s)

Versus

SHANKER BAGDUJAR – Respondent (s)

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Appearance :

MR KD VASAVADA for Petitioner No(s).: 1.

MR DAXESH T DAVE for Respondent No(s).: 1.

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CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date : 26/07/2005

ORAL JUDGMENT

Feeling aggrieved by the judgment and order dated 29th December, 1995 passed by the Appellate Bench, Small Causes Court, Ahmedabad in Civil

Appeal No.20/1994, the respondent, defendant in HRP Suit No.3379/1986, has preferred the present Revision Application under Section 29(2) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as, "**the Rent Act**").

The respondent is the owner of the house bearing Municipal Census No.1608/12, Survey No.352/12 situated on Asarva Road, Ahmedabad. The front room of the said house admeasuring 10 ft. X 9 ft. was leased to the petitioner-defendant for a monthly rent of Rs.200/-. The plaintiff instituted HRP Suit No.3379/1986 in the Court of Small Causes, Ahmedabad for recovery of possession of the suit room on the ground that the plaintiff required the suit room reasonably and bonafide for his residence. According to the plaintiff, he had a large family and the premises in occupation of the plaintiff was not adequate to accommodate the entire family. It was alleged that the defendant was carrying on business in the suit room. In addition to the suit room, the defendant had 5 other shops in the vicinity of the suit room where he was carrying on his business in crockery. The suit was contested by the defendant vide written statement Exh.10. The learned trial Judge by judgment and order dated 31stDecember, 1993 held that the plaintiff had failed to prove that he had a large family and that he required the suit room reasonably and bonafide for personal use. Accordingly, the learned trial Judge dismissed the suit.

Feeling aggrieved, the plaintiff preferred Civil Appeal No.20/1994 before the Appellate Bench, Small Causes Court, Ahmedabad. The Appellate Bench was pleased to reverse the finding recorded by the trial Court. The Appellate Bench observed that the defendant had not disputed that the plaintiff had a large family or that the defendant had 5 other shops in the area. The Appellate Bench held that the plaintiff had a large family of 13 persons; that he was residing in a room and a kitchen in

the rear of the suit house; that he required the suit room reasonably and bonafide for his personal use. The Appellate Bench also held that no hardship shall be suffered by the defendant in the event decree for eviction were passed. The Appellant Bench, accordingly, allowed the Appeal and passed decree for eviction against the defendant. Therefore, the present Revision Application.

I have perused the pleadings and the evidence on record. I agree with the finding recorded by the Appellant Bench. No case for interference is made out. Revision Application is dismissed with cost. Rule is discharged. Interim relief stands vacated.

(MS.R.M.DOSHIT, J.)

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